

VZCZCXYZ0000  
PP RUEHWEB

DE RUEHJM #0195 0271538  
ZNY CCCCC ZZH  
P 271538Z JAN 09  
FM AMCONSUL JERUSALEM  
TO RUEHC/SECSTATE WASHDC PRIORITY 3959  
INFO RUEHKK/ARAB ISRAELI COLLECTIVE PRIORITY  
RHEHNSC/WHITE HOUSE NSC PRIORITY

C O N F I D E N T I A L JERUSALEM 000195

SIPDIS

NEA FOR FRONT OFFICE AND IPA. NSC FOR SHAPIRO/PASCUAL

E.O. 12958: DECL: 12/30/2023  
TAGS: [KWBG](#) [PGOV](#) [PREL](#) [PTER](#) [PHUM](#) [KPAL](#) [IS](#)  
SUBJECT: IDF CONDUCTS PUNITIVE HOME SEALING IN EAST  
JERUSALEM

REF: 2008: JERUSALEM 425

Classified By: Consul General Jake Walles, per reasons 1.4 (b) and (d)

11. (C) Summary. The Israeli High Court of Justice (HCJ) has refused to hear a case brought against the IDF for sealing the home of an East Jerusalem Palestinian who attacked the Mercaz HaRav Yeshiva in West Jerusalem in March 2008. The HCJ called the sealing a legitimate deterrent measure and an internal Ministry of Defense decision. According to a human rights lawyer who represented the attacker's family, the court's position opens the door for the IDF to seal and possibly demolish the homes of families of other accused terrorists, which has not occurred since a 2005 GoI decision to suspend the practice. End Summary.

IDF SEALS EAST JERUSALEM HOME  
AFTER COURT REFUSES TO HEAR CASE  
-----

12. (C) In mid-January, the IDF sealed the home of the parents and brother of Ala'a Abu Dhaim, a Palestinian East Jerusalem resident who attacked the Mercaz HaRav Yeshiva in West Jerusalem in March 2008 (reftel). (Note: Abu Dhaim was killed in the course of the attack on the yeshiva. End note.) Andre Rosenthal, a lawyer with the Israeli human rights NGO HaMoked (aka The Center for the Defense of the Individual) who represented the Abu Dhaim family before the HCJ, told PolOff January 26 that the sealing sets a precedent for similar cases in the future. Rosenthal said he argued against sealing the Abu Dhaim home on the grounds that it represents guilt by association, collective punishment, and revenge -- all of which should render the sealing illegal. He said that the HCJ refused to hear the case and called the sealing a legitimate deterrent, allowing the IDF to seal portions of the home permanently.

FIRST HOME SEALING SINCE GOI 2005 MORATORIUM  
-----

13. (C) Rosenthal said this is the first punitive home sealing since 2005, when a GOI committee determined that such actions do not deter potential terrorists. Once the IDF ceased sealing or demolishing homes as punishment, the HCJ refused to rule against them, he said. The HCJ thus refused to hear the Abu Dhaim case, because the IDF was never legally prevented from conducting home sealings, and the court considered it an internal Ministry of Defense decision. Rosenthal added that he had requested an extension, believing that the verdict could set an important precedent, but the court refused.

14. (C) Rosenthal said that the GoI confirmed to the court that Ala'a Abu Dhaim was not connected to any illegal organizations and agreed not to punish the Abu Dhaim family for Ala'a's actions. Thanks to Rosenthal's efforts (he

claimed), the IDF agreed to seal -- rather than demolish -- two floors of the four story building. The sealed area was cemented over, so that it cannot be reopened without demolishing the building, Rosenthal said. Two brothers and a sister still inhabit the two open floors.

15. (C) Rosenthal told PolOff that the HCJ's passivity opens the door for the IDF to resume sealing and possibly demolishing homes of people who, while not involved in "terrorist activity," are associated with individuals who committed violent crimes. He said that several cases from 2008 are either in courts or will be soon. Jerusalem attorney Danny Seidemann agreed that the ruling supports future punitive demolitions. He told PolOff January 20 that the court's decision punished the Abu Dhaim family by evicting them from their home, although no court convicted them of a crime.

COMMENT  
-----

16. (C) The Roadmap does not specifically address home sealings, but calls for "an end the demolition of Palestinian homes and property, as a punitive measure or to facilitate Israeli construction." The sealing of the Abu Dhaim home effectively punishes the parents and brother of Ala'a Abu Dhaim for his crime. End Comment.

WALLES